

May 19 2010

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

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IN THE SUPREME COURT OF THE STATE OF MONTANA
No. DA 10-0109

RENEE GRIFFITH,)	
)	
Plaintiff and Appellant,)	
)	MOTION FOR LEAVE
vs.)	TO FILE BRIEF AS
)	AMICUS CURIAE
)	
BUTTE SCHOOL DISTRICT NO. 1,)	
CHARLES UGETI AND JOHN)	
METZ,)	
Defendants and Appellees)	

The ACLU of Montana Foundation (ACLU-MT) hereby moves for leave to file an amicus brief in the above-entitled matter. The ACLU-MT is a Montana non-profit organization whose mission is to defend individual constitutional rights. Preservation of rights under the First Amendment to the United States Constitution is foremost in that mission. This case involves a complex and

unsettled area of First Amendment law, where an individual student's right to religious liberty and free speech must be considered in light of the School District's concerns under the Establishment Clause and the separation of church and state. The ACLU-MT seeks to file a brief that addresses the possible pitfalls as well as advantages of the District Court's decision in this case, putting this case in the context of nationwide litigation on this tension within the First Amendment. As such, the amicus brief would be for informational purposes and not filed in support of either party. The brief would hopefully serve as a resource to the Court with respect to the broader ramifications of a ruling in this matter.

The ACLU-MT would also address another important anticipated issue in this case — the effect of a dismissal of a case by the Montana Human Rights Commission. The District Court held that such a dismissal by the Human Rights Commission effectively precludes litigation of a discrimination claim in district court, whether the discrimination claim is based upon state law or federal law and presented as a § 1983 action. Because the ACLU-MT is actively involved in preserving and maintaining the legal avenues and remedies for discrimination claims, it anticipates addressing this preclusion issue as well as the First Amendment issue in its amicus brief.

ACLU-MT therefore seeks permission to file an amicus brief for

informational purposes and in support of neither party. Counsel for the parties have been contacted and counsel for Appellant, Ms. Griffith, objects to the filing of the amicus brief. Counsel for Appellees were contacted last week and were traveling. Counsel for Appellees were not able to obtain a response from their clients or to reach a decision as to whether or not they object to the amicus brief by the time this motion needed to be filed. Because of the tight schedule and the fact that the motion had to be held for 11 days because of Appellant's objection, undersigned counsel thought it expedient to file the motion without waiting further for a response from Appellees.

Currently, Appellant's opening brief is due May 24, 2010. ACLU-MT requests to file its brief on June 9, 2010, two weeks after Appellant's brief and two weeks before Appellee's response brief would be due.

Respectfully submitted this 18th day of May, 2010


ELIZABETH L. GRIFFING
Attorney
ACLU of Montana Foundation

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of the foregoing Motion for Leave to File Amicus Brief was mailed to the following on this 18th day of May, 2010

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